

JUSTICE AND PUBLIC SAFETY CABINET
Department of State Police
(Amendment)

502 KAR 13:040. Issuance, expiration, and renewal of certification to carry a concealed deadly weapon pursuant to the Law Enforcement Officers Safety Act of 2004 ("LEOSA"), 18 U.S.C. 926C, for honorably retired elected or appointed peace officers.

RELATES TO: KRS 186.412, 237.110, 237.138, 237.140, 237.142, 18 U.S.C. 926C

STATUTORY AUTHORITY: KRS 237.140

NECESSITY, FUNCTION, AND CONFORMITY: KRS 237.140 provides for the certification of honorably retired elected or appointed peace officers to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C and requires the department ~~[Kentucky State Police]~~ to promulgate administrative regulations to implement the certification provisions. This administrative regulation establishes the requirements and procedures for the issuance, expiration, and renewal of a LEOSA license.

~~Section 1. [Definition. (1) "License" means the document indicating the approved certification pursuant to the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C.~~

~~Section 2.]~~ Issuance of License. (1) The department shall issue a LEOSA license if it confirms that the applicant is qualified to carry a concealed deadly weapon pursuant to 18 U.S.C. 926C after the department has received the documentation required by 502 KAR 13:010.

(2) If the department issues a LEOSA license, it shall:

(a) Transmit the license to the sheriff; and

(b) Send ~~[an issuance]~~ notice to the applicant, informing him or her that the license is being conveyed to the sheriff of the county where the applicant resides and what date the license will be available from the sheriff.

(3) The sheriff shall issue the license to the applicant upon:

(a) Verification of the identity of the applicant by:

1. Submission of a valid Kentucky operator's license or personal identification card issued by the Transportation Cabinet ~~[a circuit court clerk]~~ pursuant to KRS 186.412; or

2. Personal knowledge of the sheriff; and

(b) Signature of the issuance notice by the applicant in the presence of the sheriff or the sheriff's designee.

~~Section 2. [Section 3.]~~ Expiration. A LEOSA license shall expire one (1) year from the date of the range qualification listed on the KSP Form 123, "Law Enforcement Safety Act Licensee Peace [Peace] Officer Range Qualification Certification[LEOSA, KSP 123], submitted with the application.

~~Section 3. [Section 4.]~~ Renewal. Not less than ninety (90) ~~[one hundred twenty (120)]~~ days prior to the expiration date of the license, the department shall mail to each licensee a notice of expiration. ~~["Notice of Expiration - LEOSA."]~~ Any licensee wishing to renew the license shall apply and be approved in the manner described in 502 KAR 13:010 and this administrative regulation for first time applicants except that a licensee shall not have to submit a copy of the "LEOSA Law Enforcement Retirement Certification", KSP 124B, if the licensee previously submitted a retirement certification that was accepted by the department.

Section 4.~~[Section 5.]~~ Identification. A LEOSA license issued by the department to a successful applicant shall consist of a photographic identification card containing the following:

(1) The front of the photographic identification card shall include the following information for the certified retired peace officer:

- (a) Name;
- (b) Address;
- (c) Date of birth;
- (d) Law enforcement agency retired from;
- (e) Expiration date of certification;
- (f) LEOSA license number; and
- (g) Photograph.

(2) The back of the photographic identification card shall state the following: ~~[be substantially in the following form:]~~ The Commonwealth of Kentucky hereby certifies that the licensee identified on the front of this card is a qualified retired law enforcement officer as defined in the Law Enforcement Officers Safety Act of 2004, 18 U.S.C. 926C, and has, within one (1) year prior to the expiration date shown on the front of this card, been tested or otherwise found by the Commonwealth of Kentucky to meet the marksmanship qualification requirement established by the Commonwealth for peace officers.

Section 5.~~[Section 6.]~~ Incorporation by Reference. (1) The following material is incorporated by reference:

(a) KSP Form 123, Law Enforcement Officer Safety Act Licensee Peace ~~["Peace"]~~ Officer Range Qualification Certification~~["LEOSA", KSP 123], 2014 edition [07/05];~~

~~(b) "Notice of Issuance", 1/9/07;~~

~~(c) "Notice of Expiration -- LEOSA", 6/21/07;]~~ and

~~(b) [(d)]~~ KSP Form 124B, "LEOSA Law Enforcement Retirement Certification", [KSP 124B,] 2014 edition~~[December 2010].~~

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Criminal Identification and Records Branch, Kentucky State Police, 1266 Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m. The phone number for the Criminal Identification and Records Branch is (502) 227-8700. This material is also available on the department's Web site at kentuckystatepolice.org.

COL. PHILLIP J. BURNETT, JR., Commissioner

APPROVED BY AGENCY: August 24, 2021

FILED WITH LRC: August 26, 2021 at 4:30 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on 11:00 a.m. on November 22, 2021 at 4449 Kit Carson Drive, Funderburk Building, Richmond, Kentucky 40475. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through 11:59 p.m. on November 30, 2021. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person below.

CONTACT PERSON: Amy Barker, Assistant General Counsel, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8207, fax (502) 564-6686, email Justice.RegContact@ky.gov.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact person: Amy Barker

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation establishes the requirements and procedures for CCDW certification for honorably retired, elected, or appointed peace officers.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to outline the requirements and standards that must be met for CCDW licensure.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This regulation conforms to the authorizing statute by laying out the procedures to be followed by law enforcement desiring CCDW licensure.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: The regulation assists in the administration of the statutes by providing the process to be followed by both the department and prior law enforcement officials.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: The amendment clarifies the existing language of the regulation, and removes outdated terms and requirements.

(b) The necessity of the amendment to this administrative regulation: The amendment revises the statutory authority.

(c) How the amendment conforms to the content of the authorizing statutes: The amended regulation allows for the reporting procedures to be more effectively understood by the Department and reporting agencies; includes the definition of what a "license" is; states how applications are processed; and updates the materials incorporated by reference.

(d) How the amendment will assist in the effective administration of the statutes: The amendment clarifies the existing language, procedures, and the statutory authority.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(4) Provide an analysis of how the entities identified in the previous question will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions each of the regulated entities have to take to comply with this regulation or amendment: No new or additional actions will have to be taken by the regulated entities in order to effectively comply with this amended regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities: Nothing.

(c) As a result of compliance, what benefits will accrue to the entities: The Department and criminal justice agencies will benefit from more clearly defined procedures, which will assist in the administration of the procedures.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: None.

(b) On a continuing basis: None.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Not applicable.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: No increase in fees will be necessary.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No, this regulation does not establish any new fees; nor does it directly or indirectly increase any fees.

(9) TIERING: Is tiering applied? No. Tiering was not appropriate in this administrative regulation because the administrative regulation applies equally to all those individuals or entities regulated by it.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department of Kentucky State Police, and law enforcement officials desiring CCDW licensure.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 237.140 and the applicable federal statutes.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect. If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? None.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? None.

(c) How much will it cost to administer this program for the first year? Nothing.

(d) How much will it cost to administer this program for subsequent years? Nothing.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None.

Expenditures (+/-): None.

Other Explanation: None.